

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

RICARDO A. DE LOS SANTOS MORA,	*	C.A. No. 06-46 JJF
	*	
Plaintiff,	*	
	*	
v.	*	MOTION FOR
	*	SUMMARY JUDGMENT
M. JANE BRADY, A. SCOTT DAVIS,	*	
and HARRINGTON POLICE	*	
DEPARTMENT,	*	
	*	
Defendants.	*	

COMES NOW defendant Harrington Police Department, by and through its attorneys, Schmittinger and Rodriguez, P.A., and moves this Court pursuant to Fed. R. Civ. Pro. 12(b) (6) to dismiss plaintiff's claim against the Harrington Police Department on grounds as follows:

1. This action was filed on January 20, 2006. The claim against the Harrington Police Department was not made until October 2, 2006, when plaintiff moved to amend his complaint. Docket Item 27. This Court granted the motion to amend on October 30, 2006. Docket Item 30.
2. Plaintiff filed this action pursuant to the Alien Tort Claims Act, 28 U.S.C. §1350. Plaintiff, a citizen of the Dominican Republic, alleges that, when he was arrested, he was not advised of his rights under Article 36 of the Vienna Convention.
3. This Court has already ruled that plaintiff's complaint fails to state a claim upon which relief may be granted against former Attorney General Brady. Docket Item

39. Plaintiff's claim against the Harrington Police Department fares no better as it also fails to allege causation or damages, two elements necessary to state a tort claim.

4. Plaintiff's claim against the Harrington Police Department is also barred by the applicable statute of limitations. The Alien Tort Claim Act is subject to a ten-year statute of limitations. Plaintiff's claim, if he had one, arose not later than March 28, 1996, when he was acquitted of the criminal charges for which he was arrested. His claim against the Harrington Police Department was not filed until October 2006, more than ten years after his acquittal. Plaintiff's claim against the Harrington Police Department does not relate back to the date of original filing under Rule 15(c) because the Harrington Police Department did not receive notice of the institution of this action within 120 days of the filing of this action.

WHEREFORE, defendant Harrington Police Department prays this Court to enter an Order dismissing plaintiff's claim against it.

SCHMITTINGER AND RODRIGUEZ, P.A.

/s/ William W. Pepper Sr.  
WILLIAM W. PEPPER SR., ESQUIRE  
BAR ID #2400  
414 South State Street  
P.O. Box 497  
Dover DE 19903-0497  
302.674.0140  
Attorney for Defendant Harrington  
Police Department

DATED: April 9, 2007

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

RICARDO A. DE LOS SANTOS MORA,	*	C.A. No. 06-46 JJF
	*	
Plaintiff,	*	
	*	
v.	*	<b>ORDER</b>
	*	
M. JANE BRADY, A. SCOTT DAVIS,	*	
and HARRINGTON POLICE	*	
DEPARTMENT,	*	
	*	
Defendants.	*	

AND NOW this \_\_\_\_\_ day of \_\_\_\_\_ A.D. 2007,  
the motion to dismiss filed by defendant Harrington Police Department having been read  
and considered and it appearing to the Court that

1. the plaintiff's complaint fails to state a claim against the Harrington Police  
Department because it fails to allege causation or damages; and

2. the plaintiff's claims are barred by the applicable ten-year statute of  
limitations; and

IT IS ORDERED that plaintiff's claim against the Harrington Police Department  
is dismissed.

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United States District Judge

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

RICARDO A. DE LOS SANTOS MORA,	*	C.A. No. 06-46 JJF
	*	
Plaintiff,	*	
	*	
v.	*	CERTIFICATE OF
	*	SERVICE
M. JANE BRADY, A. SCOTT DAVIS,	*	
and HARRINGTON POLICE	*	
DEPARTMENT,	*	
	*	
Defendants.	*	

I hereby certify that I have caused two (2) copies of Motion For Summary Judgment and Proposed Form of Order be served upon:

Ricardo A. De Los Santos Mora  
27615083  
United States Penitentiary  
P.O. Box 150160  
Atlanta GA 30315

Linda M. Carmichael, Esquire  
Department of Justice  
820 North French Street, Sixth Floor  
Wilmington DE 19801

by mailing copies to the addresses shown above, postage prepaid, on April 9, 2007.

SCHMITTINGER AND RODRIGUEZ, P.A.

/s/ William W. Pepper Sr.  
WILLIAM W. PEPPER SR., ESQUIRE  
BAR ID #2400  
414 South State Street  
P.O. Box 497  
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Attorney for Defendants Harrington  
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DATED: April 9, 2007